

(Purchase Agreement, So. Sta.)

This Agreement made and entered into as of the day of , 196 by and between HENRY M. LEEN, Esquire, as he is Trustee of the property of THE BOSTON TERMINAL CORPORATION, a corporation organized and existing under the laws of The Commonwealth of Massachusetts and having a usual place of business within the City of Boston, Suffolk County, said Commonwealth (hereinafter sometimes referred to as "Terminal") and BOSTON REDEVELOPMENT AUTHORITY, a public body politic and corporate organized pursuant to the provisions of the Housing Authority Law, chapter 121 of the Massachusetts General Laws (Ter. Ed.), as amended (hereinafter sometimes referred to as "BRA").

W I T N E S S E T H T H A T

WHEREAS BRA is undertaking surveys and preparing plans for a land assembly and redevelopment project or an urban renewal project in a certain project area (hereinafter referred to as, respectively, "the Project" and "the Project Area") which includes certain property of Terminal within the City of Boston hereinafter specifically identified; and

WHEREAS surveys, planning, and other activities in connection with the Project have been or will be carried out with financial assistance from the Housing and Home Finance Agency of the United States pursuant to Title I of the Housing Act of 1949, as amended, and/or from The Commonwealth of Massachusetts pursuant to Part IX of the said Housing Authority Law; and

WHEREAS BRA and Terminal desire to provide for the acquisition by BRA of Terminal's said property for purposes of the Project without prejudice to the concurrent continuation of railroad services insofar as required by law or necessary to

fulfill the transportation needs of the Project and the City of Boston;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. Terminal will sell and BRA will buy, upon the terms hereinafter set forth, the following described real estate

An area of 1,032,483 square feet, more or less, situated in the City of Boston, and bounding and described as follows:

BEGINNING at the intersection of the west side of Dorchester Avenue and the south side of Summer Street and running northwesterly on a bearing of N 54° 41' 57" W for a distance of 680.26 feet to a point of curvature;

thence curving in an arc in a southwesterly direction with a radius of 34.61 feet, centered in a southerly direction, running for a length of arc of 63.42 feet;

thence continuing southwesterly along the easterly side of Atlantic Avenue on a bearing of S 20° 18' 28" W for a distance of 1165.87 feet;

thence running slightly north of west on a bearing of N 73° 36' 32" W for a distance of 95.56 feet;

thence running southerly on a bearing of S 16° 37' 26" W for a distance of 41.03 feet;

thence running south-southwest on a bearing of S 28° 38' 55" W for a distance of 120 feet;

thence running southerly on a bearing of S 16° 37' 26" W for a distance of 774.86 feet;

thence commencing a series of six (6) short legs to the south-southwest by veering slightly to the south-southwest and running southwesterly on a bearing of S 20° 43' 35" W for a distance of 89.91 feet;

thence running southwesterly on a bearing of S 38° 26' 35" W for a distance of 161.80 feet;

thence running west-southwesterly on a bearing of S 53° 33' 53" W for a distance of 163.94 feet;

thence running west-southwesterly on a bearing of S 74° 19' 53" W for a distance of 156 feet;

thence running westerly on a bearing of S 86° 30' 29" W for a distance of 91.80 feet;

thence running west-southwesterly on a bearing of S 53° 33' 53" W for a distance of 72 feet;

thence turning through south and running east-south-east on a bearing of S 73° 25' 58" E for a distance of 354.63 feet;

thence turning through east and running northeast on a bearing of N 53° 31' 56" E for a distance of 79.61 feet;

thence running northeast along the Fort Point Channel at the harbor line on a bearing of N 63° 22' 56" E for a distance of 570.86 feet;

thence running north-northeast on a bearing of N 08° 23' 58" E for a distance of 28.78 feet to a point of curvature;

thence curving in an arc with a radius of 162.00 feet, centered to the southeast, running for a length of arc of 89.70 feet;

thence running in a west-northwesterly direction on a bearing of N 63° 37' 28" W for a distance of 102.46 feet;

thence turning through north and running in a northeasterly direction on a bearing of N 26° 22' 32" E for a distance of 745.71 feet;

thence running in a northeasterly direction on a bearing of N 39° 09' 55" E for a distance of 7.22 feet;

thence running in a northeasterly direction on a bearing of N 26° 22' 32" E for a distance of 967.24 feet;

thence running in an east-southeasterly direction on a bearing of S 63° 37' 28" E for a distance of 261.12 feet;

thence running in a northeasterly direction on a bearing of N 26° 22' 32" E for a distance of 216.98 feet to intersect the starting point of this description.

And, included as a part of said real estate, all buildings, structures and improvements now situated thereon and all fixtures owned by Terminal in connection therewith, including, without limiting the generality of the foregoing, all railroad tracks, signals, switches and other transportation equipment, all venetian blinds or window shades, screen and storm windows and doors, awnings, shutters, and the like, all furnaces, hot water heaters and other heating equipment, all plumbing, all stoves and other kitchen equipment, all bathroom fixtures, all electric and lighting fixtures, all air conditioning equipment, ventilators, and other machinery, and all antennas, fencing, gates, trees and other plant.

The real estate, buildings, structures, improvements and fixtures described in this paragraph 1 are hereinafter collectively referred to as "the Property".

2. At the Closing (hereinafter defined), Terminal shall deliver a good and sufficient quitclaim deed or deeds and such other appropriate bills of sale, assignments and like instruments as may be reasonably necessary in order, in the aggregate, to convey good and clear record and marketable title to the Property, free from all encumbrances except

- a. existing building and zoning laws;
- b. real estate taxes for 1966 and subsequent years;
- c. liens for municipal betterments assessed after the date of this agreement;
- d. the lease of Railway Express Agency, if such lease is duly assigned by Terminal at the Closing;
- e. leases of space in the so-called South Station Building or "headhouse" which are for terms ending not later than December 31, 1967, and duly assigned by Terminal at the Closing;
- f. the rights, if any, which The Commonwealth of Massachusetts then has pursuant to Section N(3) of the Plan of Reorganization of The New York, New Haven and Hartford Railroad Company approved by the Interstate Commerce Commission in its Supplemental Order of February 8, 1944, in its Finance Docket No. 10992 (257 I.C.C. 9) in the property described in the Schedule I which is part of the form of agreement annexed hereto and marked "D";
- g. subsurface easements described on the schedule thereof annexed hereto; and
- h. easements and restrictions of record.

Deeds, bills of sale, assignments and other instruments required by this paragraph 2 shall run to BRA or its nominee or nominees designated by notice to Terminal at least seven days before the Closing.

3. The agreed purchase price for the Property is \$6,950,000. Said price shall be paid at the Closing as follows:

- a. \$4,225,000 in cash or certified or bank check or checks or other like instrument or instruments reasonably acceptable to Terminal; and
- b. a note in the principal sum of \$2,725,000 in the form annexed hereto, made a part hereof and marked "A" and secured by a mortgage in the form annexed hereto, made a part hereof and marked "B".

There shall also be delivered at the Closing, first having been duly executed, two agreements between BRA or its nominee or nominees and Terminal or its nominee or nominees, to wit, an agreement with respect to the portion of the Property known as the South Station Building or the "headhouse" and an agreement with respect to a portion of the Property now encumbered by tracks, which agreements shall be in the forms annexed hereto, made a part hereof and marked, respectively, "C" and "D". BRA's agreement to purchase and Terminal's agreement to sell the Property are conditional upon due execution and delivery of each of said agreements in the forms marked "C" and "D".

4. Terminal may, in order to be able to convey title to the Property as required by paragraph 2 hereof, use the portion of the purchase price referred to in subparagraph 3.a or any part thereof to clear the title of any encumbrance. However, any instrument resulting from any such use of said portion of the purchase price must be delivered at the Closing or recorded prior thereto.

5. On the Closing Date, the Property shall be in the same condition as it now is, reasonable wear and tear excepted, and in no way in violation of any building or zoning law or any covenant or other restriction then in force and effect or any other provision of law, and shall also be free of all tenants and occupants, except those expressly authorized by a lease described in clause d of paragraph 2 hereof or one of the agreements in the forms marked "C" and "D" referred to in paragraph 3 hereof. The term of any lease shall be deemed to end prior to January 1, 1968 if after the Closing BRA, unilaterally and without thus incurring any liability to the lessee, can cause such lease to terminate prior to that date.

6. Time is of the essence of this agreement. Unless otherwise previously agreed in writing the Closing shall be at the Registry of Deeds for Suffolk County at 10:00 a.m. on the earliest first business day of a month when both

- a. all approvals necessary to BRA's power to acquire the Property pursuant to said Housing Authority Law shall have been obtained and all other conditions precedent to such power shall have been satisfied and
- b. either party shall have given to the other at least fourteen days' notice referring to the issuance of such approvals and the satisfaction of such conditions and requesting that the Closing be held.

The Closing Date shall be the first day of said month or July 1, 1965, whichever is earlier.

7. Collected rents, prepaid premiums on any insurance assigned by Terminal to BRA or its nominee or nominees, water and

sewer use charges, maintenance expense, and real estate taxes for the year 1965 shall be apportioned, and the net amount thereof shall be added to or deducted from, as the case may be, the portion of the purchase price referred to in subparagraph 3.a. Uncollected rents shall be apportioned if and when collected by either party. (The word "rents", as used in this paragraph, includes, among other things, deposits and payments on a percentage of sales basis by lessees or other tenants, but does not include payments by rail carriers which are in the nature of contributions on account of operating losses of Terminal rather than in the nature of rent.) If, at the time of the Closing, the tax rate and valuation for the then current year are not known, they shall be assumed, for purposes of apportionment, to be the same as for the preceding year; in that event said taxes shall be reapportioned as soon as the new tax rate and valuation can be ascertained and any amount thus found due to either party shall be paid on demand.

8. Any apportionment or reapportionment pursuant to paragraph 7 shall be based upon assumptions that

- a. any month is one-twelfth of a year and each day is one-thirtieth of a month, and
- b. Terminal's ownership of the Property continues until, and that of BRA or its nominee or nominees begins immediately after, midnight of the day preceding the Closing Date.

9. If Terminal shall be unable to give title or to make conveyance or to deliver possession of the Property as stipulated in paragraphs 2 and 5 hereof or in any way unable to fulfill its obligations hereunder, Terminal shall give notice of such inability to BRA at or before the time when the Closing would otherwise occur. Thereupon, unless BRA elects pursuant to paragraph 11 hereof to waive objections to such inability, the Closing shall be postponed for a period of two months or such longer appropriate

period as Terminal may specify in said notice. Terminal shall then use every reasonable effort to remove any defects in title or to deliver possession or to make the Property conform to the said provisions hereof, as the case may be.

10. If the Closing shall not have occurred on or before July 1, 1966, either Terminal or BRA may, by notice to each other party hereto, rescind this agreement; such rescission shall be effective upon the sixtieth day after the day such notice is mailed or upon such later date as may be specified in such notice unless the Closing sooner occurs.

11. BRA may, upon or at any time after receipt of notice pursuant to paragraph 9 or paragraph 10 hereof or at the Closing, elect to waive - either unconditionally or upon such conditions precedent or subsequent as BRA may specify - any objection to Terminal's inability or failure to fulfill this agreement. If BRA elects to accept such title as Terminal can deliver to the Property as it then is and to pay therefor the purchase price without deduction, Terminal shall convey such title and, if the Property or any of it shall have been damaged by fire or casualty insured against, either pay over or assign at the Closing or credit against the portion of the purchase price referred to in subparagraph 3.a. all amounts recovered or recoverable on account of such insurance, less any amounts necessarily expended by Terminal to repair such damage or restore the Property.

12. The delivery by Terminal and the acceptance by BRA or its nominee or nominees of a deed or deeds or other instrument shall be deemed to acknowledge full performance of every agreement and obligation herein contained or expressed, except such as are, by the express terms hereof or of any condition referred to in paragraph 11, to be performed after the Closing. However, either party's waiver of the failure of the other to fulfill this agreement

- a. Adequate ticket and baggage space, as that phrase is used hereinafter, means an area or a combination of areas (i) comprising in the aggregate at least twenty thousand square feet, (ii) having convenient access to Atlantic Avenue, Summer Street, other means of transportation and the track ends on the Property then in use pursuant to the said agreement in the form marked "D" and (iii) reasonably fit and appropriate, in the circumstances, for use as a public concourse and waiting room and to afford information, ticket selling and baggage handling facilities.
- b. In connection with the redevelopment of the Property, Terminal or its nominee or nominees shall have options
- (i) as a redeveloper, to acquire from BRA, pursuant to an appropriate disposition agreement and at an approved disposition price, land upon which to construct adequate ticket and baggage space in accordance with BRA's plan for the said Project, or
 - (ii) to lease or otherwise acquire the right to use and occupy adequate ticket and baggage space, which shall be made available (if Terminal so elects as hereinafter provided) in the structures erected in and on the

Property on appropriate terms and at annual rents or fees not exceeding the lesser of a fair rental or the aggregate annual cost to Terminal of operating and maintaining the ground floor of the said "headhouse" pursuant to the said agreement marked "C" (it being agreed that those "terms" and "rents and fees" will be such as not to cause a substantial increase in Terminal's cost of operating and maintaining such facilities).

In either event, (1) Terminal shall give BRA written notice of its election of either of the said options within sixty (60) days after BRA notifies Terminal that such option should be exercised because plans for redevelopment of the area are being finalized, and if it fails to give such notice, this subparagraph shall thereafter be void and of no effect; and (2) Terminal shall also be given preference to lease at a fair rental office space or other space in addition to adequate ticket and baggage space which may be available in such structures.

- c. If BRA terminates the said agreement marked "C" and an option pursuant to either clause b(i) or clause b(ii) of this paragraph 13 is exercised, BRA will make available to Terminal or its nominee adequate ticket and baggage space on a temporary basis from the time the said "headhouse" becomes unusable for ticket selling and baggage handling purposes and until the ticket and baggage space

developed in accordance with such option becomes usable. The rent or fee for such temporary space shall not exceed the rents or fees described in said clause b(ii).

- d. BRA will make available to Terminal or its nominee or nominees, on such portion or portions of the Property and upon such terms and conditions as to rental and otherwise as shall be mutually agreed upon, adequate space for railroad operational needs, including space for air compressors, repair and maintenance shops and facilities for crews and service personnel.

14. No member of the governing body and no other officer, employee, or agent of BRA or Terminal who exercises any functions or responsibilities in connection with the carrying out of the Project shall have any personal interest, direct or indirect, in this agreement.

15. No member of the governing body of the City of Boston, and no other public official of such locality who exercises any

functions or responsibilities in the review or approval of the carrying out of the Project shall have any personal interest, direct or indirect, in this agreement.

16. No member of or Delegate to the Congress of the United States, and no Resident Commissioner, shall be admitted to any share or part of this agreement or to any benefit to arise herefrom.

17. Except as otherwise specifically provided herein, and unless and until a different signatory or addressee therefor is designated by written notice so given, any notice or other communication required or permitted to be given hereunder by either party to the other shall be sufficient if in writing, signed by the Trustee of Terminal or the Development Administrator of BRA, and mailed by certified mail addressed to, or delivered in hand to, the said Trustee or the said Development Administrator (as the case may be). As used herein, the term "day" or "days" refers to calendar days and "business days" comprise Monday through Friday excluding holidays observed by the Superior Court within and for Suffolk County.

18. The words "herein", "hereof", and "hereunder" refer to this agreement as a whole and not merely to the subdivisions in which such words appear. The word "person" when used herein refers to any firm, partnership, other association or corporation as well as to any natural person. Unless the context does not permit, the neuter gender when used herein shall include the masculine and feminine, the singular shall include the plural and the plural shall include the singular.

19. If some person other than BRA and Terminal executes, as nominee of BRA or Terminal, any of the instruments referred to in paragraph 3 hereof, the party whose nominee such person is

shall execute and deliver at the Closing a guaranty of such person's obligations pursuant to such instrument in the form annexed hereto, made a part hereof and marked "E".

20. This agreement and the documents annexed hereto set forth the entire contract between the parties, and no waiver or modification of any term hereof shall be valid unless it is in writing and duly executed on behalf of both BRA and Terminal. This agreement is to take effect as a sealed instrument, and is binding upon and enures to the benefit of the parties hereto and their respective legal representatives, successors and assigns. The provisions of this agreement and of instruments and agreements delivered at the Closing shall be governed by and construed in accordance with the laws of The Commonwealth of Massachusetts.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

ATTEST:

BOSTON REDEVELOPMENT AUTHORITY

_____ By _____

In the presence of:

_____ (SEAL)
HENRY M. LEEN, Trustee of the
property of THE BOSTON TERMINAL
CORPORATION

NONNEGOTIABLE
DIRECT REDUCTION
MORTGAGE NOTE

\$2,725,000

, 196

FOR VALUE RECEIVED Boston Redevelopment Authority, a public body politic and corporate organized pursuant to the provisions of the Housing Authority Law, chapter 121 of the Massachusetts General Laws (Ter. Ed.), as amended, promises to pay to Henry M. Leen, Esquire, as he is Trustee of the property of The Boston Terminal Corporation, a corporation organized and existing under the laws of The Commonwealth of Massachusetts and having a usual place of business within the City of Boston, Suffolk County, said Commonwealth, only the sum of two million seven hundred twenty-five thousand dollars in or within twenty years from this date, with interest thereon at the rate of five per cent per annum, payable in monthly installments of \$17,985 on the first day of each month hereafter, which payments shall first be applied to interest then due and the balance thereof remaining applied to principal; the interest to be computed monthly in advance on the unpaid balance with the right without penalty or other charge to make additional payments on account of said principal sum on any payment date. This note is subject to certain provisions expressed in the mortgage delivered contemporaneously, including a stipulation with respect to accrual of interest and a limitation upon the time when an action may be brought.

(SEAL)

BOSTON REDEVELOPMENT AUTHORITY

ATTEST: _____

By _____

Secured by Mortgage of real estate
in Boston to be recorded in Suffolk
County Registry of Deeds.

MORTGAGE

BOSTON REDEVELOPMENT AUTHORITY, a public body politic and corporate organized pursuant to the provisions of the Housing Authority Law, chapter 121 of the Massachusetts General Laws (Ter. Ed.), as amended (hereinafter sometimes referred to as "BRA" or "mortgagor"), for consideration paid, grants to HENRY M. LEEN, Esquire, as he is Trustee of the property of THE BOSTON TERMINAL CORPORATION, a corporation organized and existing under the laws of The Commonwealth of Massachusetts and having a usual place of business within the City of Boston, Suffolk County, said Commonwealth (hereinafter sometimes referred to as "Terminal" or "mortgagee") with MORTGAGE COVENANTS to secure the payment of two million seven hundred twenty-five thousand and no hundredths dollars (\$2,725,000.00), with interest thereon, as provided in a nonnegotiable note of even date, and the observance and performance of all the covenants and agreements of this mortgage and of said note, the following described land, with the buildings, structures and improvements thereon:

The above-described land is conveyed SUBJECT TO and WITH BENEFIT OF easements and restrictions of record and applicable building and zoning laws, and SUBJECT TO unpaid taxes for the year 1965, liens for municipal betterments, if any, and leases and other tenancies now existing. Included as a part of said real estate are all buildings, structures, improvements and fixtures of whatever kind and nature, on said premises or hereafter placed thereon prior to the full payment and discharge of this mortgage, insofar as the same are or can by agreement of the parties be made a part of the realty. (The real estate, buildings, structures, improvements and fixtures described in this paragraph are hereinafter collectively referred to as "the Mortgaged Property.")

The mortgagor shall not be obligated to insure the Mortgaged Property or any part thereof, but the mortgagor covenants and agrees that if the structures now standing on the Mortgaged Property are insured against fire or other casualties and contingencies, said insurance upon said structures shall be for the benefit of, and payable in case of loss to, the mortgagee as its interest shall appear. In the event the ownership of the Mortgaged Property, or any part thereof, becomes vested in a person other than the mortgagor, the mortgagee may not, without notice to the mortgagor, deal with such successor or successors in interest with reference to the mortgage or the debt hereby secured. However, no sale of the property hereby mortgaged prior to foreclosure and no forbearance on the part of the mortgagee and no extension of the time for the payment of the debt hereby secured given by the mortgagee assented to by the mortgagor herein, shall operate to release, discharge, modify, change or affect the original liability of the mortgagor herein, either in whole or part.

Nevertheless, the mortgagor reserves the right, in connection with or in furtherance of the Project referred to in the agreement between Terminal and BRA dated _____, to remove unused buildings, structures, improvements and fixtures (particularly, without limiting the generality of the foregoing, unused railroad tracks, signals, switches and other transportation equipment and related sheds, towers, other structures, plumbing, machinery, and antennas, fencing and gates) and to drive piles and generally to erect such new construction as BRA may wish, subject to the provisions of the instrument which is annex "D" to the said agreement between Terminal and BRA insofar as the same may then be in force and effect, all without liability to the mortgagee for strip or waste of the Mortgaged Property.

This mortgage is granted upon the condition that Terminal shall, within seven days after notice given from time to time by BRA, duly execute and deliver to BRA such instrument or instruments as may be required.

- (a) to release from the burden of this mortgage specific portions of the Mortgaged Property designated by BRA, provided that as of the date of any such release the aggregate of amounts theretofore paid or credited on account of principal of the note secured hereby is equal to or greater than ten dollars per square foot of Mortgaged Property which has been or is then so released, or
- (b) to subordinate this mortgage to any subsequent mortgage or other security interest which is (i) necessary to BRA's obtaining financial assistance for the said Project pursuant to Title I of the Housing Act of 1949, as amended, or the said Housing Authority Law or (ii) incident to development on the Mortgaged Property

which increases the fair market value of the Mortgaged Property by an amount equal to or greater than the maximum amount secured by such subsequent mortgage or security interest.

The mortgagor covenants and agrees to perform and observe all of the terms and conditions of the note secured by this mortgage, and further covenants and agrees to pay on demand to the mortgagee, or the mortgagee may at its option add to the principal balance then due, any sums advanced or paid by the mortgagee on account of any default, of whatever nature, by the mortgagor, or any sums advanced or paid, whether before or after default, for taxes on the Mortgaged Property or any sums necessarily paid by the mortgagee, including reasonable attorney's fees, in defending against any legal or equitable proceeding wherein any of the rights created by this mortgage are jeopardized or in issue and the mortgagee's interest is not represented by the mortgagor.

The parties contemplate that most of the moneys which shall come due to Terminal from BRA pursuant to the note secured hereby, both principal and interest, will be paid by offsetting moneys coming due to BRA from Terminal or its nominee or nominees pursuant to contemporaneous agreements. Accordingly, in the event of default in any monthly payment due under this mortgage and the said note, (a) interest as provided in said note shall continue to accrue on principal (but not on interest) thus remaining unpaid, but (b) the mortgagee shall not institute any action, in court or otherwise, upon said note or to foreclose upon or otherwise enforce this mortgage until and unless (i) any such default shall have endured for a period of time in excess of ten years during which no moneys shall have been paid or credited on account of said mortgage or (ii) as a result of such defaults the principal and interest due pursuant to said note and unpaid is, in the aggregate, in excess of one million dollars (\$1,000,000).

The provisions of paragraphs 14 through 18 of the agreement between Terminal and ERA previously identified are incorporated herein by this reference.

This mortgage is further upon the STATUTORY CONDITION, for any breach of which, or for the breach by the mortgagor of any other condition herein contained, the mortgagee shall have the STATUTORY POWER OF SALE.

IN WITNESS WHEREOF, the said Boston Redevelopment Authority has caused its seal to be hereto affixed and these presents to be signed, acknowledged and delivered in its name and behalf by Francis J. Lally its Chairman this day of 1965.

Signed and sealed in
the presence of

BOSTON REDEVELOPMENT AUTHORITY

By _____ (SEAL)

THE COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

, 1965

Then personally appeared the above-named Francis J. Lally and acknowledged the foregoing instrument to be the free act and deed of Boston Redevelopment Authority before me

Notary Public
My commission expires: _____

This management and occupancy agreement made and entered into as of the first day of July, 1965 by and between BOSTON REDEVELOPMENT AUTHORITY, a public body politic and corporate organized pursuant to the provisions of the Housing Authority Law, chapter 121 of the Massachusetts General Laws (Ter. Ed.), as amended (hereinafter sometimes referred to as "BRA") and HENRY M. LEEN, Esquire, as he is Trustee of the property of THE BOSTON TERMINAL CORPORATION, a corporation organized and existing under the laws of The Commonwealth of Massachusetts and having a usual place of business within the City of Boston, Suffolk County, said Commonwealth (hereinafter sometimes referred to as "Terminal")

W I T N E S S E T H T H A T

WHEREAS BRA owns certain property, more fully described in the Schedule I annexed hereto and made part hereof and commonly known as the South Station Building or "headhouse" (hereinafter called the "Building"), which property is designed and best suited for use as a railroad terminal; and

WHEREAS Terminal has accrued extensive experience in the maintenance and operation of railroad terminals and related buildings and facilities in general and of BRA's said property in particular; and

WHEREAS BRA desires to avail itself of the benefits and advantages of Terminal's said experience;

NOW, THEREFORE, it is mutually agreed as follows:

1. BRA hereby appoints Terminal, and Terminal hereby accepts appointment by BRA, as BRA's sole and exclusive renting and management agent for the Building, upon the terms and conditions hereinafter set forth.

2. It is understood, and this Agreement is premised upon the understandings, that

- a. The phrase "interested rail carriers", as used hereinafter, shall refer to any common carrier by rail which, at the time in question, operates either freight or passenger service into the track ends adjacent to the Building;
- b. the interested rail carriers shall have the right to occupy at a nominal rental, or there shall otherwise be made available to the public, sufficient first floor space to serve as a concourse with access from Atlantic Avenue and Summer Street to the adjacent track ends then in use and to afford information, ticket selling and baggage handling facilities;
- c. Terminal shall have the right to occupy without payment of rent reasonable office and other space in the Building necessary to the performance of Terminal's duties hereunder;
- d. the interested rail carriers shall have the right to occupy at a nominal rental reasonable office space in the Building and reasonable other space in the Building for said facilities and other functions necessary to railroad service then being operated into the said track ends, including the quarters and other facilities for train crews presently provided on the fifth floor of the Building;
- e. all leases and other tenancies in the Building created by Terminal after the date hereof shall be terminable by BRA or Terminal upon not more than six months' notice;
- f. BRA contemplates the demolition of the Building within three to five years, and accordingly does not desire to undertake extensive reconstruction or rehabilitation or unnecessary repairs of the Building or any part thereof; and

g. Terminal may at any time, if it finds it economical to do so, close and seal off any portion or portions of the Building.

3. BRA agrees to pay Terminal, as full compensation for all services rendered pursuant to this Agreement fifty per cent (50%) of all net income from operation of the Building, As used herein, "gross receipts" shall mean the sum of all amounts collected for rent, electric current and from all other sources whatsoever (but not including amounts paid by one or more interested rail carriers not as rent but on account of operating losses sustained by Terminal), "Terminal Expenses" shall mean the sum of all expenses incurred by Terminal in performing its obligations hereunder (including those mentioned in paragraphs 5, 6 and 8 hereof, but excluding amounts paid on account of breach of this Agreement, gross negligence or intentional wrong), "BRA Expenses" shall mean the sum of taxes or payments in lieu thereof on the Building and an amount equal to interest on the price paid by BRA to acquire the Building, and "net income" shall mean the amount, if any, by which gross receipts exceeds the sum of Terminal Expenses and BRA Expenses.

4. If gross receipts are less than the sum of Terminal Expenses and BRA expenses, no compensation shall be payable to Terminal pursuant to paragraph 3 hereof. However, Terminal shall in no event be liable on account of this Agreement to pay to BRA any amount other than the excess, if any, of gross receipts over Terminal Expenses unless Terminal commits a breach of its obligations hereunder.

5. Subject to the understandings stated in paragraphs 2.b. and 2.d. hereof, Terminal shall diligently and to the best of its ability, and in pursuance of the best interests of BRA in all respects, exercise general supervision over the Building and the operation, including rental and maintenance thereof, so that the Building shall be operated in a proper and lawful, harmonious, efficient and economical and businesslike manner. In connection therewith, Terminal shall have the following powers and duties:

- a. Terminal shall use its best efforts in disposing of vacant space, and in keeping the premises rented to desirable tenants for lawful uses at rates reasonable in the circumstances and to this end is hereby authorized to enlist the services of real estate brokers.
- b. All inquiries for any leases or renewals or agreements for the rental or operation of the premises or any part thereof shall be referred to Terminal and all negotiations connected therewith shall be conducted solely by or under the direction of Terminal.
- c. Terminal shall use its best efforts in the management of the property and due diligence in collecting the rents and other income therefrom.

- d. Terminal shall make or cause to be made such ordinary repairs and/or alterations to the premises as may be advisable or necessary, and to purchase such supplies as may be advisable or necessary and may make contracts for electricity, gas, steam, telephone, window cleaning, vermin extermination, and other services or such of them as Terminal shall deem advisable. If it becomed advisable or necessary to make extraordinary repairs, Terminal will notify BRA and will do nothing without express authority.
 - e. Terminal shall render to BRA a monthly statement of receipts and disbursements and shall remit annually any net balance shown to be due BRA. The disbursements in such statements shall include the compensation of Terminal as hereinbefore provided.
 - f. Terminal shall not be liable for interest or amortization on mortgages, taxes or assessments.
6. Terminal agrees:
- a. to hold and save BRA free and harmless from damages or injuries to person or property by reason of any cause whatsoever either in and about the premises or elsewhere but in connection with the Building or Terminal's actions;
 - b. to reimburse BRA upon demand for any moneys which the latter is required to pay out for any reason whatsoever, either in connection with, or as an expense in defense of, any claim, civil or criminal action, proceeding, charge or prosecution made, instituted or maintained against BRA or Terminal and BRA jointly or severally, affecting or due to the condition or use of the premises, or acts or

omissions of Terminal or employees of Terminal, or arising out of or based upon any law, regulation, requirement, contract or award relating to the hours of employment, working conditions, wages and/or compensation of employees or former employees of Terminal, or otherwise; and

- c. to defend promptly and diligently, at Terminal's sole expense, any claim, action or proceeding brought against BRA or Terminal and BRA jointly or severally arising out of or connected with any of the foregoing, and to hold harmless and fully indemnify BRA from any judgment, loss or settlement on account thereof.

Nothing contained in subdivision a and b of this paragraph 6 shall relieve BRA from responsibility to Terminal for gross negligence or intentional wrongs.

7. If Terminal shall fail or refuse to comply with or abide by any rule, order, determination, ordinance or law of any federal, state or municipal authority which Terminal is not contesting in good faith and by appropriate legal proceedings, BRA upon giving twenty-four (24) hours' written notice mailed to Terminal at its address first hereinbefore set forth, may terminate this Agreement.

8. Terminal agrees to procure and maintain, in responsible insurance companies satisfactory to BRA, policies affording public liability, elevator liability, steam boiler, and payroll hold-up insurance, superintendent's fidelity bond and such other insurance as may be necessary for the protection of the interests of BRA and Terminal, and Terminal further agrees to comply with applicable law with respect to its self - insurance for workmen's compensation and Federal Employers' Liability Act purposes. In each policy of insurance or bond,

Terminal shall upon request designate BRA as a party insured in addition to Terminal. The insurer and the amount of coverage in each policy required by this paragraph 8 shall be mutually agreed upon from time to time by Terminal and BRA. A certificate of each such policy or bond shall be delivered promptly to BRA by Terminal.

9. The provisions of paragraphs 14 through 18 of the Agreement between Terminal and BRA dated , 196 are incorporated herein by this reference.

10. This instrument shall be interpreted according to the laws of The Commonwealth of Massachusetts and the following rules:

- a. Unless repugnant to the context, the terms "BRA" and "Terminal" shall refer to all successors and assigns of each of them and all persons claiming under them.
- b. Failure on the part of either party to complain of any action or non-action on the part of the other, no matter how long the same may continue, shall never be deemed to be a waiver of any rights hereunder. Further, it is covenanted and agreed that no waiver at any time of any of the provisions hereof shall be construed as a waiver of any of the other provisions hereunder, and that a waiver at any time of any of the provisions hereof shall not be construed as a waiver at any subsequent time of the same provisions. The consent or approval by either party to or of any action by the other requiring such consent or approval shall not be deemed to waive or render unnecessary consent or approval to or of any subsequent similar act. If any term or provision of this instrument or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this instrument, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or

unenforceable shall not be affected thereby,
and each term and provision of this instrument
shall be valid and be enforced to the fullest
extent permitted by law.

11. Unless sooner terminated pursuant to paragraph 7
hereof or by mutual consent, this Agreement shall continue in
full force and effect until the third anniversary of the date
hereof and thereafter until terminated by either party after
at least six months' prior notice to the other party.

IN WITNESS WHEREOF BRA and Terminal have caused this
instrument to be executed by their respective officers hereunto
duly authorized and their respective seals affixed hereto, as
of the day and year first above written.

ATTEST:

BOSTON REDEVELOPMENT AUTHORITY

_____ By _____

In witness whereof:

HENRY M. LEEN, Trustee of the
property of THE BOSTON TERMINAL
CORPORATION

KNOW ALL MEN BY THESE PRESENTS

THAT, as of this first day of _____, 196 , in consideration of the rents herein reserved and of the agreements, covenants and conditions herein contained, BOSTON REDEVELOPMENT AUTHORITY, a public body politic and corporate organized pursuant to the provisions of the Housing Authority Law, chapter 121 of the Massachusetts General Laws (Ter. Ed.), as amended (hereinafter sometimes referred to as "BRA") hereby grants to HENRY M. LEEN, Esquire, as he is Trustee of the property of THE BOSTON TERMINAL CORPORATION, a corporation organized and existing under the laws of The Commonwealth of Massachusetts and having a usual place of business within the City of Boston, Suffolk County, said Commonwealth (hereinafter sometimes referred to as "Licensee"), first, the right and easement (hereinafter referred to as the "Track Easement") to use for the operation of common carriers of persons and freight by rail and related services and for persons and vehicles to pass and repass in and through certain portions of certain parcels of land in the City of Boston, County of Suffolk, The Commonwealth of Massachusetts, to wit, the portion of each of five parcels which is below the horizontal planes defined by the elevations indicated on the Plan annexed hereto and made a part hereof -

Parcel 1 being a strip of land containing the track ends now known and numbered as Nos. 16 and 17 in the so-called South Station and lying, at its northern extremity, between land now or formerly of the United States and an imaginary line approximately fifteen feet west of and parallel to the center-line of said track No. 16;

Parcel 2 being a strip of land containing the track ends now known and numbered as Nos. 12, 13, 14 and 15 in the so-called South Station and lying, at its northern extremity, between said Parcel 1 and an imaginary line approximately fifteen feet west of and parallel to the center-line of said track No. 12;

Parcel 3 being a strip of land containing the track ends now known and numbered as Nos. 8, 9, 10 and 11 in the so-called South Station and lying, at its northern

extremity, between said Parcel 2 and an imaginary line approximately fifteen feet west of and parallel to the center-line of said track No. 8;

Parcel 4 being a strip of land containing the track ends now known and numbered as Nos. 4, 5, 6 and 7 in the so-called South Station and lying, at its northern extremity, between said Parcel 3 and an imaginary line approximately fifteen feet west of and parallel to the center-line of said track No. 4; and

Parcel 5 being a strip of land containing the track ends now known and numbered as Nos. 1, 2 and 3 in the so-called South Station and lying immediately west of the northern portion of said Parcel 4 -

which Parcels are bounded and described as shown on said Plan and stated in the Schedule I annexed hereto and made a part hereof (and which portions of said Parcels are hereinafter referred to as the "Track Locations"), and, second, the right and easement (hereinafter referred to as the "Utility Easement") to maintain and use, incidentally to such rail common carrier operations, electric power vaults and lines, steam lines, water lines, and similar facilities in certain portions of other land of BRA described in the Schedule II annexed hereto and made a part hereof (which portions are hereinafter referred to as the "Utility Locations");

RESERVING, however, to BRA and its successors and assigns the right from time to time to construct or erect or drive and maintain and enjoy

- (A) below the surface of the ground within the Track Locations, below the Utility Locations, or above or otherwise outside the Track Locations and the Utility Locations, any buildings, structures or portions thereof or any other uses whatsoever and/or
- (B) elsewhere within the Track Locations or the Utility Locations, piles, columns and/or other structural supports and caps or footings thereof or therefor and entrances and exits in connection with uses on other land of BRA or its successors or assigns,

which do not damage or threaten damage to or impair the support of or interfere in any way with Licensee's use of the Track Locations and Utility Locations (or such portion thereof as

Licensee is then entitled hereunder to use) substantially as they are presently being used, and which are constructed, erected or driven with due regard for ventilation and safety in connection with Licensee's said use;

FOR A TERM of twenty years and successive renewal terms each of one year unless and until terminated as hereinafter provided, beginning on the day and year first above written;

SO LONG AS those portions of the Track Locations and the Utility Locations which have not theretofore been: surrendered are used for purposes of or in connection with railroad operations and Licensee faithfully performs each of the following agreements, covenants and conditions:

1. Licensee covenants and agrees to pay rents or fees to BRA, in care of its Development Administrator or at such other place as BRA may from time to time designate in writing, as follows:

- a. The rents or fees hereinafter provided shall be paid in equal monthly installments in advance. Such installments shall be due and payable on the date of this instrument and on the first day of each succeeding month.
- b. The basic rent or fee for the Track Easement for the initial twenty-year term hereof shall be one hundred ten thousand dollars (\$110,000) per year, payable in any event until the twentieth anniversary of the date hereof. The basic rent or fee for the Track Easement for such successive renewal terms after the said initial twenty-year term shall be one dollar (\$1) per year, payable until the surrender (as hereinafter provided) of all of every parcel, including Parcel 1.
- c. Additional rents or fees shall be paid for the Track Easement in and through each of the Track Locations until the surrender thereof (as hereinafter provided). Such additional rents or fees shall be (i) for Parcel 1, twenty thousand dollars (\$20,000) per year until the twentieth anniversary of the date hereof and one dollar (\$1) per year thereafter, (ii) for Parcel 2, twenty thousand dollars (\$20,000) per year,

(iii) for Parcel 3, fifty thousand dollars (\$50,000) per year, (iv) for Parcel 4, one hundred thousand dollars (\$100,000) per year, and (v) for Parcel 5, one hundred fifty thousand dollars (\$150,000) per year.

- d. Licensee shall pay in addition to the basic and additional rents or fees hereinbefore provided or shall be credited with (as the case may be) use and occupancy charges at the rate of twenty-five cents (25¢) per square foot per year for
- (i) any land of BRA outside the Track Locations and the Utility Locations actually occupied by Licensee, or
 - (ii) any part of the Track Locations which has been abandoned (but not effectively surrendered) by Licensee and which BRA or its successor or assign actually occupies.

Such charges shall be paid on account of each calendar month during which such occupancy continues.

- e. The basic rent or fee for the Utility Easement for the initial twenty-year term hereof shall be five hundred dollars (\$500) per year, payable in any event until the twentieth anniversary of the date hereof. The basic rent or fee for the Utility Easement for such successive renewal terms after the said initial twenty-year term shall be one dollar (\$1) per year, payable until the surrender (as hereinafter provided) of all of the Utility Locations, including those incidental to Parcel 1.
- f. Licensee shall also pay, as an additional rent or fee for the Utility Easement, an amount equal to six per cent (6%) of the rents or fees due pursuant to the foregoing subparagraphs 1.c. and 1.d. and/or subparagraph 2.b. hereof.
- g. Licensee shall not be required to pay any real estate taxes hereafter assessed on the Track Locations or the Utility Locations or any additional rent or fee on account of such taxes. However, in the event that any such taxes are assessed on such Locations, Licensee shall have the option of paying such taxes and crediting the amount thereof against the rents or fees that Licensee covenants and agrees to pay to BRA hereunder or under any other agreement simultaneously executed by the parties hereto.

2. Notwithstanding anything herein contained to the contrary, if Licensee and all relevant rail carriers shall have used every reasonable effort to surrender the Track Easement in and through

Parcels 2, 3, 4 and 5, and each of them, and the Utility Easement insofar as incidental thereto, but continued railroad operations over all or part of the said Parcels shall be necessary by reason of the refusal of a governmental agency to permit the surrender and/or a contractual arrangement with one or more governmental authorities (it being agreed that entering into such a contractual agreement shall not be evidence of failure to use "every reasonable effort to surrender"), and Licensee notifies BRA that Licensee desires rent relief pursuant to this paragraph, then

- a. no rental shall be credited pursuant to subparagraph 1.d. hereof;
- b. clauses (ii) through (v) of subparagraph 1.c. and subparagraph 1.d. to the contrary notwithstanding, after amounts equalling, in the aggregate, one million six hundred thousand dollars (\$1,600,000) have been paid or credited as additional rents or fees and use and occupancy charges for those portions of said Parcels 2, 3, 4 and 5 which remain in railroad operation solely for such reason or reasons, all such additional rents or fees and charges for such portions shall be forgiven; and
- c. the additional rents or fees and use and occupancy charges for such portions of said Parcels from and after the twentieth anniversary of the date hereof shall not exceed the greater of (i) one dollar (\$1) per year or (ii) a sum equal to the amount paid pursuant to such contractual arrangement which is specifically attributable to the use of the Track Easement and the Utility Easement.

3. The parties contemplate that most of the moneys which shall become due and payable to BRA pursuant to paragraph 1 hereof will be paid by offsetting moneys due from BRA pursuant to a note and mortgage contemporaneously delivered. Accordingly, in the event of default in any payment due pursuant to paragraph 1 or 2 hereof no interest shall accrue on such payment and no action shall be instituted to collect such payment until and unless BRA owes nothing pursuant to said note and mortgage.

4. On or after the date hereof, Licensee may surrender the Track Easement as to certain Parcels and the Utility Easement in part, as follows:

- a. Any such surrender shall be effective only as of midnight on December 31 of any year, after six months' advance notice thereof given by Licensee to BRA, and after Licensee has completely abandoned use of every portion of such Parcel and of all Utility Locations incidental thereto.
- b. One or more contiguous Parcels may be surrendered simultaneously. However, Parcel 4 may not be surrendered before Parcel 5 is surrendered, Parcel 3 may not be surrendered before Parcel 4, and Parcel 2 may not be surrendered before Parcel 3.
- c. After an effective surrender in accordance with the foregoing subparagraphs, (i) Licensee shall have no obligations hereunder with respect to any Parcel as to which the Track Easement is thus surrendered, and (ii) BRA's rights in such Parcel and the Utility Locations incidental thereto shall be in no way limited by either the Track Easement or the Utility Easement.

5. In addition, Licensee shall, as soon as feasible after notice by BRA, abandon any part of the Utility Locations or the Track Locations specified in such notice if the facilities situated therein which are both necessary for and actually being used by Licensee in connection with railroad operations are re-located reasonably satisfactorily and without expense to Licensee. Any such abandonment shall constitute an effective surrender for purposes of clause 4.c.(ii) hereof but shall in no way affect the rents or fees to be paid by Licensee.

6. Upon termination of the Track Easement or the Utility Easement or surrender pursuant to paragraph 4 hereof or abandonment pursuant to paragraph 5 hereof or otherwise,

- a. Licensee shall remove all goods and effects not the property of BRA and peaceably yield up to BRA the property surrendered or abandoned in reasonably good order; and, in the event Licensee fails to so yield up the said property, Licensee shall reimburse BRA for putting the premises in good order;
- b. BRA may remove and store in any public warehouse or elsewhere at the Licensee's risk and expense and in the name of the Licensee any or all property of Licensee not removed; and if the Licensee shall be then in default under the provisions hereof, BRA may immediately or at any time thereafter upon notice to Licensee sell at public or private sale any or all such property not removed and apply the net proceeds of such sale to the payment of any sum or sums due hereunder and BRA shall not be liable to the Licensee or to any other person in any manner;
- c. Licensee may remove any track, equipment, materials or other severable property owned by BRA (which track, equipment, materials and other property are hereinafter called "salvage") from the part of the Track Locations or the Utility Locations so surrendered or abandoned, unless such removal damages or threatens damage to or impairs the support of other property of BRA, upon and only upon the following terms and conditions: All salvage which Licensee desires to remove shall be listed in a notice to BRA at least three months before surrender pursuant to paragraph 4 hereof or simultaneously with abandonment pursuant to paragraph 5 hereof of the place where such salvage is now located. Insofar as feasible, BRA shall remove all salvage so listed and make the same available at a mutually convenient place for asportation by

Licensee or permit all such salvage to be removed by Licensee at any time within thirty days after such surrender or abandonment. The fair net salvage value of salvage asported or removed by Licensee as aforesaid shall be paid by Licensee to BRA upon demand.

7. The Track Easement and the Utility Easement are granted subject to and with benefit of easements and restrictions of record and applicable building and zoning laws, and subject to unpaid taxes for the year 1965, a mortgage delivered contemporaneously herewith, liens for municipal betterments, if any, and leases and other tenancies now existing. The property subject to the said Easements includes all buildings, structures, improvements and fixtures of whatever kind and nature owned by BRA and situated within the Track Locations or the Utility Locations; however, any interest in said buildings, structures, improvements and fixtures is granted "as is" and "where is", and BRA makes no warranty, express or implied, with respect thereto, as to merchantability, fitness or otherwise.

8. Licensee covenants during the term and all renewal terms hereof and such further time as Licensee uses any part of the Track Locations or the Utility Locations

- a. to pay unto BRA the rents or fees and other charges herein required to be paid at the times herein provided and to pay when due all charges for water, gas, electricity, steam or other utility used on the said Locations; and to use the said Locations for no purpose other than railroad operations;
- b. not to injure, overload or deface any part of the said Locations nor-permit there any auction sale or any nuisance or the emission therefrom of any objectionable noise or odor, nor to permit any use of said Locations which is improper, offensive, contrary to law or ordinance, or liable to invalidate any insurance, nor to make or suffer any waste;
- c. to hold BRA harmless from all claims for injury to or death of persons and for damage to property while on the said Locations and from all claims for injury to or death of, or damage to property of, persons who are patrons, customers, invitees, employees or

servants of Licensee while in or on other property of BRA, unless such injury or damage is caused by the negligence or willful misconduct of BRA, its agents or servants;

- d. to procure and maintain, at its own cost and expense, general liability insurance protecting BRA and Licensee (among others) against any claim for personal injury or death of any person or persons or damage to property arising out of or occurring in connection with the use, occupation and maintenance of the said Locations or the approaches thereto or exits therefrom, such insurance to be (i) as to platform areas, in responsible insurance companies satisfactory to BRA and in an amount of not less than one hundred thousand dollars (\$100,000) in the event of injury or death of one person and three hundred thousand dollars (\$300,000) in the event of injury or death of more than one person in the same accident and in an amount not less than twenty-five thousand dollars (\$25,000) in the aggregate for damage to property and (ii) with respect to rail-carrier operations, self insurance by the carriers using the said Locations up to one hundred thousand dollars (\$100,000) and general liability insurance in excess thereof or, at Licensee's option, equivalent policies in such companies; and if Licensee shall fail to procure and maintain insurance in such amounts BRA may do so and charge premiums therefor to Licensee;
- e. to procure and maintain, in responsible insurance companies satisfactory to BRA, at its own cost and expense, policies of insurance insuring all structures within the Track Locations against loss or damage by fire in an amount not less than eighty (80) per cent of the full insurable value thereof, such insurance to be for the benefit of BRA and Licensee, as their respective interests may appear, and first payable in case of loss to mortgagees and then to BRA;
- f. to deposit with BRA certificates of insurance required to be carried by the foregoing subparagraphs d and e;
- g. to permit BRA, at any time or from time to time during the continuance of this lease, as security for any indebtedness owed by it, to grant mortgages of the property which includes the Track Locations and the Utility Locations or any part thereof, the lien of which may at the option of BRA be prior to any interest of the Licensee hereunder; but any such mortgage, unless it is made expressly subject to the Track Easement and the Utility Easement, shall contain apt provisions under the terms of which the existence of the said Easements shall be recognized and shall provide that so long as Licensee, its successors and assigns, shall keep and perform the terms, covenants and conditions in this instrument contained on its part to be kept and performed, neither the holder of such mortgage nor any holder or owner of the indebtedness secured thereby, nor any other person, shall, in attempting to enforce

collection of said indebtedness or to realize upon such security, have any power to impair, modify, abrogate, or adversely affect the rights of Licensee, its successors or assigns, under this instrument, to the end that Licensee, so long as this instrument is in full force and effect, shall notwithstanding the creation of or default under any such mortgage or indebtedness secured thereby, peacefully and quietly have, hold and enjoy the said Easements for the entire term thereof, and all other rights, privileges and benefits to which it may be entitled under and pursuant to the terms of this instrument; and upon receipt of notice of entry to foreclose any mortgage Licensee may recognize such mortgagee and anyone claiming under such mortgage, including the purchaser at foreclosure sale, as successor to BRA's interest and rights hereunder and, if requested, attorn to such mortgagee or purchaser;

- h. to keep all property of any kind belonging to the Licensee or any person claiming through it that may be in the said Locations at the sole risk of the Licensee; and if the whole or any part thereof shall be destroyed or damaged by fire, water or otherwise, or by use or abuse of water, or by the leaking or bursting of water pipes or springlers, or in any other way or manner, no part of said loss or damage is to be charged to, or borne by the BRA in any case whatever;
- i. not to make any alterations or additions or erect any signs within the said Locations without first obtaining on each occasion the written consent of the BRA; and
- j. not to assign the said Easements without first obtaining BRA's written consent, which consent shall not be unreasonably withheld; and no such assignment shall relieve Licensee of any obligation or liability hereunder.

It is understood that normal, lawful railroad operations shall not be deemed to violate the foregoing subparagraph b and that sub-licenses for operation of freight or passenger service granted to common carriers by rail shall not require BRA's consent.

9. a. BRA shall have no obligation to maintain the foundation, exterior walls, structural columns, beams, roofs, or any other portions of the property which includes the Track Locations and

the Utility Locations or of any property above, below or otherwise adjacent to the said Locations, except insofar as may be necessary to prevent damage or interference to Licensee's use thereof. BRA will indemnify Terminal and hold it harmless of and from all claims for injury to or death of persons and for damage to property while on the said Locations insofar as such claims result from the use by BRA or its assigns of property above, below or otherwise adjacent to the said locations and are not caused by negligence or wilful misconduct of Terminal, its assigns or sublicensees or any of their agents or servants.

9. b. Licensee shall keep and maintain the said Locations in sufficiently good condition and repair to preclude injury to person or property, including adjacent and other property of BRA. In case any structure shall be damaged or destroyed, in whole or in part, during the term or any renewal term hereof, by fire or other casualty insured against, the proceeds of insurance shall be paid to BRA or the holder of any mortgage and such structure shall be promptly repaired by BRA insofar as necessary to preclude such injury. However, BRA shall be under no obligation to expend for repairs or restoration any amount in excess of the net proceeds of insurance paid to it, and the requirements of the urban renewal project or land assembly and redevelopment project for the project area wherein the said Locations are situated shall be considered. In any event, a just proportion of the rents or fees hereinbefore established shall be abated according to the nature and extent of the injury or damage until the structure

shall have been fully and completely repaired or restored or Licensee's facilities shall have been relocated reasonably satisfactorily.

10. If Licensee shall fail, on or after the time when BRA owes nothing pursuant to the note and mortgage referred to in paragraph 3 hereof, promptly to pay any amount due pursuant to paragraph 1 hereof or shall neglect or fail to perform or observe any of its other covenants herein, and such neglect or failure shall continue for a period of ten (10) days after notice to Licensee, or if the said Easements shall be taken on execution or by other process of law, or if (except in connection with the reorganization proceedings now pending under federal law) Licensee makes any assignment for the benefit of creditors, commits any act of bankruptcy or files a petition under any bankruptcy or insolvency law, or such a petition filed against Licensee is not dismissed within ninety days, or a receiver or similar officer becomes entitled to the Easements and they are not returned to Licensee within ninety days, then, and in any of said cases, BRA lawfully may, immediately or at any time thereafter and without demand or notice, enter upon the Track Locations or any part thereof in the name of the whole and repossess the same as of BRA's former estate and expel Licensee and those

claiming through or under it and remove its and their effects, forcibly if necessary, without being deemed guilty of any manner of trespass and without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of covenant, and upon such entry the Easements granted hereby shall terminate. Licensee covenants that, in case of such termination or in case of any other termination for reason other than the default of BRA, Licensee will at the election of BRA (which election may be made at any time) pay to BRA sums equal to the rents or fees and other payments herein provided at the same times and in the same installments.

11. In the event of any breach by Licensee of any of the provisions of this instrument (except for the non-payment of rent), BRA may, if Licensee has not cured said breach within thirty (30) days after written notice thereof given by BRA, cure such breach at the expense of Licensee. If by reason of any breach, BRA is compelled to pay, or elects to pay, any sum of money or do any act which will require the payment of any sum of money, or incurs any expense, including reasonable attorneys' fees, in instituting or prosecuting any proceeding to enforce BRA's rights hereunder, the sum or sums so paid hereunder, with interest thereon at the rate of six per cent (6%) per annum from the date of payment thereof, shall be deemed to be due from Licensee to BRA on the first day of the month following the payment of such sums.

12. Unless sooner terminated pursuant to paragraph 10 hereof, this instrument and the Track Easement and the Utility Easement shall be automatically renewed for successive renewal terms unless and until terminated by Licensee by six months' notice

in writing after the annual rent or fee for the Track Easement in and through Parcel 1 shall have been reduced to one dollar (\$1) per year.

13. The provisions of paragraphs 14 through 18 of the agreement between Licensee and BRA dated , 196 are incorporated herein by this reference.

14. Licensee covenants, on behalf of itself and its successors and assigns

- a. that neither it nor any such successor or assign shall effect or execute any agreement, lease, conveyance or other instrument whereby the Locations or any part thereof is restricted upon the basis of race, religion, color, or national origin in the sale, lease or occupancy thereof and
- b. that it, and its successors and assigns to or of the Locations or any part thereof shall comply with all State and local laws, in effect from time to time, prohibiting discrimination or segregation by reason of race, religion, color or national origin in the sale, lease, or occupancy of the Locations or any part thereof.

The foregoing covenants in this paragraph 14 contained shall be covenants running with the land and shall, in any event, and without regard to technical classification or designation, legal or otherwise, be, to the fullest extent permitted by law and equity, binding for the benefit and in favor of, and enforceable by, BRA, its successors and assigns, the City of Boston and any successor in interest to the fee in the said Locations or in the project area of the said project or any part thereof, and the owner of any land (or of any other interest in such land) in the said project area or any part thereof against Licensee, its successors and assigns and any party in possession or occupancy of the Track Locations or the Utility Locations or any part thereof. Said covenants shall remain in effect without limitations as to time: Provided, That said covenants shall be binding on Licensee itself, each successor in interest or assign, and each party in possession or occupancy, respectively, only for such period as it shall have title to or an interest in or possession or occupancy of the said Locations or part thereof. In amplification, and not in restriction, of the foregoing in this paragraph, it is intended and agreed

-all-

that BRA shall be deemed a beneficiary of said covenants both for and in its own right and also for the purposes of protecting the interests of the community and the other parties, public or private, in whose favor or for whose benefit such covenants have been provided. Said covenants shall run in favor of BRA, for the entire period during which such covenants shall be in force and effect, without regard to whether BRA has at any time been, remains, or is an owner of any land or interest therein to, or in favor of, which such covenants relate. BRA shall have the right, in the event of any breach of any such covenant, to exercise all the rights and remedies, and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach of covenant, to which it or any other beneficiaries of such covenant may be entitled.

15. This instrument shall be interpreted according to the laws of The Commonwealth of Massachusetts and the following rules:

- a. Unless repugnant to the context, the terms "BRA" and "Licensee" shall refer to all successors and assigns of each of them and all persons claiming under them.
- b. Failure on the part of either party to complain of any action or non-action on the part of the other, no matter how long the same may continue, shall never be deemed to be a waiver of any rights hereunder. Further, it is covenanted and agreed that no waiver at any time of any of the provisions hereof shall be construed as a waiver of any of the other provisions hereunder, and that a waiver at any time of any of the provisions hereof shall not be construed as a waiver at any subsequent time of the same provisions. The consent or approval by either party to or of any action by the other requiring such consent or approval shall not be deemed to waive or render unnecessary consent or approval to or of any subsequent similar act. If any term or provision of this instrument or the application thereof to any person or circumstance shall, to

any extent, be invalid or unenforceable, the remainder of this instrument, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this instrument shall be valid and be enforced to the fullest extent permitted by law.

IN WITNESS WHEREOF BRA and Licensee have executed this instrument as of the day and year first above written.

ATTEST:

BOSTON REDEVELOPMENT AUTHORITY

By _____

In the presence of

(SEAL)

HENRY M. LEEN, Trustee of the
property of THE BOSTON TERMINAL
CORPORATION

GUARANTY

To

In consideration of your acceptance of the foregoing instrument executed by

as the nominee of the undersigned and of one dollar to the undersigned paid by you, receipt of which is hereby acknowledged, the undersigned represents and warrants that said nominee has the power and has been duly authorized to execute said instrument and that the undersigned has the power to enter into this guaranty; the undersigned guarantees to you that said nominee will fully, promptly, and faithfully perform, pay and discharge all said nominee's obligations pursuant to said instrument; and the undersigned hereby stipulates and agrees to pay on demand, without your first having to proceed against said nominee, all sums due and to become due to you from said nominee and all losses, costs, attorney's fees or expenses which you may suffer by reason of said nominee's default. The undersigned further agrees that no extension of time or change in, alternation of or addition to the terms of the said instrument shall in any way affect the undersigned's obligations on this guaranty; and the undersigned hereby waives notice of any such extension, change, alteration or addition and also hereby waives notice of acceptance hereof and of presentment, demand, protest and notice of nonpayment or of said nominee's default. The undersigned hereby subordinates to the payment of any amounts now or hereafter due to you pursuant to the said instrument any sums now or hereafter due to the undersigned from said nominee, and the undersigned further hereby assigns to you all such sums to the extent of the undersigned's obligations hereunder and agrees to execute any additional

instruments necessary to evidence the said assignment. This guaranty is irrevocable and shall not be affected by your accepting partial payments from said nominee or settling, releasing, by operation of law or otherwise, compounding, compromising, collecting or otherwise liquidating any obligation of said nominee. This guaranty shall bind the legal representatives, successors and assigns of the undersigned, and shall enure to the benefit of your legal representatives, successors and assigns. All of your rights are cumulative and not alternative.

Executed as a sealed instrument this day of
19 .

ATTEST:

_____ By _____

...necessary to witness the said seal. This
...irrevocable and shall not be subject to any
...the said seal and shall not be subject to any
...of law or otherwise, respecting, executing,
...of the said seal and shall not be subject to any
...This contract shall have the legal effect
...and residue of the undersigned, and shall have the
...of the legal representatives, successors and assigns.
All of your rights are hereby assigned and not otherwise.
Witness my hand and seal this 1st day of


